

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

Log #1087237

SUMMARY OF INCIDENT

On September 14, 2017, around 7:45 AM near XXXX South Normal Boulevard, Chicago, Illinois, Officer A #XXXXXX stopped Subject 1 (“Subject 1”) for failure to wear a seatbelt. Subject 1 alleges misconduct during and after her traffic stop, COPA reviews these allegations.

ALLEGATIONS

It is alleged that on September 14, 2017 at 7:45 AM, at XXXX South Normal Boulevard, Chicago, IL 60621, the accused, **Officer A #XXXXXX**:

1. Stopped Subject 1 for a traffic violation without justification;
2. Released Subject 1 on an I-Bond;
3. Placed a seizure notice on the vehicle; and
4. Engaged in an unnecessary verbal dispute with Civilian 1 (Subject 1's brother).

APPLICABLE RULES AND LAWS

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department

Rule 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals

Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty

S06-13: Bond Procedures

S07-03-05: Impoundment of Vehicles for Municipal Code Violations

Bail Bond Manual – CPD-11.909

Municipal Code of Chicago 9-80-240: Driving with a suspended or revoked license – Impoundment

Illinois State Law

The Fourth Amendment of the United States Constitution

INVESTIGATION

Statements

COPA received **Subject 1's (“Subject 1”) online web complaint** on October 24, 2017. COPA conducted **Subject 1's audio statement** on October 25, 2017. Subject 1 stated she was driving to work when an officer, now known to her as Officer A, pulled her over near XXth Street and Normal Street. Subject 1 stated that Officer A asked for her driver's license, registration, and insurance card. Subject 1 stated she asked why she was pulled over and Officer A told her for not wearing a seat belt. Subject 1 stated she was wearing her seatbelt at that time. Subject 1 stated that she took her seatbelt off to get the insurance card. Subject 1 stated she gave Officer A the insurance card and her state identification card. Subject 1 stated she told Officer A that her driver's license

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

Log #1087237

is revoked. Subject 1 said Officer A told her to step out of her vehicle and they proceeded to the police vehicle. Once in the vehicle, Subject 1 stated that Officer A checked her information. Subject 1 stated she asked Officer A not to arrest her, so Officer A told her that she would not be arrested, but given an I-Bond. Subject 1 stated that she signed the I-Bond, and Officer A told her that she was "free to go." Subject 1 stated that Officer A also told her that he would not impound the vehicle. Subject 1 stated that Officer A left her in an unfamiliar area and that she was in danger. Subject 1 stated that she called her brother, Civilian 1 ("Civilian 1"), who is a Chicago Police Department officer. Subject 1 said she told Civilian 1 that Officer A left her on the side of the road. Subject 1 stated that Civilian 1 called his lieutenant to escort her to the 7th District station to meet him. Subject 1 stated she does not remember the officer that drove her to the station, but she told the officer that she was unable to drive because Officer A ordered her not to drive the vehicle. Subject 1 stated that the escort officer drove behind her en route to the station.

While at the 7th District station waiting for Civilian 1, Subject 1 stated that Officer A arrived with an unaffiliated arrestee. Subject 1 stated that Officer A and Civilian 1 had a "verbal dispute." Subject 1 said that she did not hear the verbal dispute because was sitting in Civilian 1's vehicle. Subject 1 indicated that Civilian 1 told her the dispute pertained to Officer A's treatment towards Subject 1 while knowing that Civilian 1 was a "fellow officer." Subject 1 further indicated that Civilian 1 asked Officer A why he did not give Subject 1 a break as a family courtesy. Subject 1 stated Officer A responded that he did, because he did not impound the vehicle.

Subject 1 stated that her husband, Civilian 2 ("Civilian 2"), owner of the vehicle, indicated that when he picked up the vehicle there was a seizure notice on it. Subject 1 stated that the seizure notice was placed on the vehicle after the dispute between Civilian 1 and Officer A. Subject 1 stated she assumed it became a "personal matter." Subject 1 stated that she and Civilian 2 received a letter related to the seizure for driving on a revoked license and taking the vehicle from the impound lot. (Atts. 7, 15)

COPA conducted **Civilian 1's ("Civilian 1") audio statement** on November 17, 2017. Civilian 1 stated that he did not know Officer A prior to September 14, 2017. During the traffic stop, Civilian 1 stated that Subject 1 called him while with Officer A. Civilian 1 stated he asked to speak to Officer A. Civilian 1 stated he asked Officer A what Subject 1 did to which Officer A responded, Subject 1 was pulled over for not wearing a seatbelt and Subject 1's driver's license was suspended or revoked. Civilian 1 stated that Officer A said he was not taking the vehicle. Civilian 1 stated he asked if Officer A for a favor/professional courtesy by giving a warning rather than a traffic ticket to Subject 1. Civilian 1 stated that Officer A said he was writing Subject 1 a ticket. Civilian 1 stated he then asked Officer A to stay with Subject 1 until Civilian 1 picked her up because Subject 1 was not aware of the neighborhood. Civilian 1 stated that Officer A agreed. About ten minutes later, Civilian 1 indicated that he was on the way to Subject 1 when Subject 1 called him and told him that Officer A left. Civilian 1 stated he called a sergeant at the 7th District for an officer to pick Subject 1 up, which the sergeant did.

Once Civilian 1 arrived at the 7th District station, Civilian 1 stated that Subject 1 was sitting in the lobby. When Civilian 1 was talking to Subject 1, Civilian 1 stated that a male officer walked into the front lobby. Civilian 1 said that Subject 1 told him that the male officer was Officer A, the officer who wrote the tickets. Civilian 1 stated that Officer A went back outside and as Civilian 1

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

Log #1087237

was walking to his vehicle, Civilian 1 told Officer A “thanks a lot man, thanks for fucking doing me a favor.” Civilian 1 said that Officer A just looked at him. Civilian 1 described that Officer A was acting as if he was trying to figure out who Civilian 1 was. Civilian 1 stated that Officer A did not say anything in response.

Civilian 1 stated he went back inside the station lobby where Officer A was also present. Civilian 1 stated he looked and nodded his head at Officer A. Civilian 1 stated that Officer A said, “I did you a favor, you should be happy.” Civilian 1 stated he told Officer A that he was mad that Officer A left Subject 1 at the scene. Civilian 1 said he called Officer A “an asshole, fucking, [and] piece of shit.” Civilian 1 said he “snapped,” is “not happy about that,” and his “emotions got the best of him” Civilian 1 stated that Officer A then said to a sergeant he wants to get a CR number on Civilian 1. Civilian 1 said “for what, calling you an asshole?” Civilian 1 said that he was walking away from Officer A throughout the dispute. Civilian 1 described Officer A as “tough, hard shelled, [and] cold.” Civilian 1 described himself as “more angry.” Civilian 1 stated that the verbal dispute continued for approximately one minute. Civilian 1 stated that Subject 1 did not witness the dispute because she went outside. Civilian 1 said he did not see the seizure notice on the vehicle while at the 7th District. (Att. 18)

COPA conducted **Officer A’s #XXXXXX (“Officer A”) audio statement** on December 27, 2017. Officer A stated he observed Subject 1 driving without wearing a seatbelt on XXX West Garfield Boulevard. Officer A stated that Subject 1 wore a bright, peach blouse and the vehicle’s interior was dark. Officer A stated he saw inside the vehicle where Subject 1 would have worn her seatbelt. After he approached Subject 1’s vehicle, Officer A stated he asked for Subject 1’s driver’s license and insurance. Officer A said Subject 1 told him that her driver’s license was at home, so Officer A asked for another form of identification. Officer A stated Subject 1 provided her state identification card, but also attempted to offer her brother’s business card. Officer A said he ran Subject 1’s driver’s license number. Upon running the number, Officer A stated the Law Enforcement Agencies Data System (LEADS) report indicated that Subject 1’s driver’s license was suspended for ten years and revoked for four years. Officer A returned to Subject 1’s vehicle and asked Subject 1 to exit her vehicle. Officer A stated he placed Subject 1 into his vehicle. Officer A indicated that he did not handcuff Subject 1. Officer A stated he explained to Subject 1 that she would receive tickets for suspended license, no insurance, and not wearing a seat belt.

Officer A stated he asked Subject 1 about the business card to which Subject 1 replied, it was her brother’s (Civilian 1), card who is a police officer in the 7th District. Officer A stated he told Subject 1, as a professional courtesy for Civilian 1 being a policeman, he would allow Subject 1 to call Civilian 1 to get the vehicle. Officer A stated that Subject 1 called Civilian 1 telling him that Subject 1 was stopped and Officer A requested to talk Civilian 1. Officer A stated he spoke to Civilian 1 explaining that he stopped Subject 1 and was writing her tickets. Officer A further told Civilian 1 that, as a courtesy, he would allow Civilian 1 to get the vehicle. Officer A stated he wrote an I-Bond as a courtesy instead of arresting Subject 1. Officer A stated that an officer can write an I-Bond instead of arresting the individual once the officer determines the individual does not have any warrants against him or her. Officer A stated, as such, that was what he did. Officer A stated that at time of the traffic stop, he did not impound the vehicle.

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

Log #1087237

Officer A stated when he went to the 7th District station with another traffic violator, Subject 1 was present. While standing in front of the station talking to the violator, Officer A stated that Civilian 1 and Officer B¹ walked out of the station. Officer A stated that Civilian 1 yelled "Officer A, you [are] a fucking asshole." Officer A indicated that he did not know Civilian 1. Officer A stated he did not reply to Civilian 1. Officer A stated he went into the station as Subject 1 exited the station. Officer A stated he and Subject 1 did not exchange words. Officer A stated that Civilian 1 entered the station and said, "Officer A, you [are] an asshole, you [are] just a fucking asshole." Officer A stated he replied, "how can you be upset with me, when your sister is driving on a suspended license." Officer A indicated that is the only remark he said to Civilian 1. Officer A said he did not use profanity, raise his voice, or yell at Civilian 1. Officer A described Civilian 1 as irate. Officer A described himself as calm. Officer A stated that Civilian 1 was walking away from Officer A during the verbal exchange. Officer A stated that the verbal exchange continued for approximately one minute. Officer A stated he told the desk sergeant that he wanted to file a complaint against Civilian 1. Officer A stated that Civilian 1 subsequently exited the station.

Officer A said that he began paperwork for impoundment and placed a seizure notice on the vehicle. Officer A stated an officer may impound a vehicle when the person driving has no driver's license or the driver's license is suspended. (Att. 28)

Documentary Evidence

Subject 1's **traffic citations**, XX-XXX-XXX and XX-XXX-XXX, issued on September 14, 2017, note the offenses as failure to wear a seat belt while driving and driving on a suspended/revoked license. (Att. 8)

The Office of Emergency Management and Communications **PDT Messages Report** indicates that Subject 1 had a revoked driver's license. (Att. 9)

The Office of Emergency Management and Communications **Event Query Report** indicates that Officer A initiated a tow report on the vehicle Subject 1 drove due to revoked driver's license and no insurance. (Att. 10)

The **Vehicle Impoundment/Seizure Report**, citation numbers XX-XXX-XXX and XX-XXX-XXX, indicates that Subject 1, driver of the 2004 Mitsubishi Outlander on September 14, 2017, drove on a suspended or revoked license. The report narrates that Officer A observed Subject 1 driving without wearing a seat belt. A name check revealed Subject 1 possessed a suspended/revoked driver's license, therefore, Officer A requested the vehicle to be towed. (Att. 19) Likewise, a **Gone on Arrival Notification**, sent to Civilian 2, owner of the 2004 Mitsubishi Outlander, states that the vehicle was determined to be subject to impoundment under the Municipal Code of Chicago Section 9-80-240 Vehicle Operated by Person With Suspended or Revoked License. (Att. 20)

In *City of Chicago v. Civilian 2 #XXXXXXXXXX*, the court found probable cause for violating Municipal Code of Chicago Section 9-80-240 Vehicle Operated by Person with Suspended or Revoked License. (Att. 22)

¹ Officer B #XXXX

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

Log #1087237

Video Evidence

Officer A's in-car camera depicts Officer A conducting a traffic stop. Officer A is seen approaching Subject 1's vehicle. Subject 1 is seen providing paperwork to Officer A. Subject 1 is seen opening her door and exiting the vehicle. Officer A is seen escorting Subject 1 to the passenger side of his vehicle. Officer A and Subject 1 are heard conversing about whether Subject 1 was wearing her seat belt, Subject 1's revoked driver's license, and traffic citations. Officer A and Subject 1 are heard conversing about Civilian 1 and calling Civilian 1. (Att. 17)

COPA conducted a **POD search** around the incident location; however, there are no PODs in the area that would have captured the incident. (Att. 11)

Officer A was not equipped with a **body worn camera** because the unit does not possess them. (Att. 17)

ANALYSIS/CONCLUSION

COPA recommends a finding of Exonerated for **Allegation #1** against Officer A, that he stopped Subject 1 for a traffic violation without justification. In *Terry v. Ohio*², the Supreme Court found that a police officer may stop a person if they have a reasonable suspicion that the person has committed or is about to commit a crime. The reasonable suspicion must be based on "specific and articulable facts" and not merely a hunch. The Illinois legislature has codified this *Terry* standard which provides the following: "An officer may, after identifying himself as a peace officer, stop any person in a public place for a reasonable period of time when the officer infers from the circumstances that the person is committing, is about to commit, or has committed an offense..."³ Thus, the *Terry* standard allows an officer to conduct a brief investigative stop when there is reasonable, articulable suspicion of criminal activity.⁴ A routine traffic stop is more analogous to a so-called '*Terry stop*' than to a formal arrest.⁵

Officer A stopped Subject 1 for a traffic citation, specifically, for failure to wear a seat belt while driving and driving on a suspended/revoked license. In her statement, Subject 1 stated to COPA that she was wearing her seatbelt at that time. In his statement to COPA, Officer A stated he observed Subject 1 driving without wearing a seatbelt. Officer A explained that Subject 1 wore a bright, peach blouse and the vehicle's interior was dark, therefore, he saw inside the vehicle where Subject 1 would have worn her seatbelt. In the video footage, Subject 1 is heard stating, "No, it wasn't around me. I had it strapped in, I just didn't have it on properly like [Officer A] said." As such, at the time of the stop, Officer A had reasonable articulable suspicion that Subject 1 engaged in criminal activity when he believed Subject 1 violated a traffic law.

² 392 U.S. 1 (1968).

³ 725 ILCS 5/107-14 (2008).

⁴ *People v. Jackson*, 366 Ill.Dec.164, 170 (1st Dist. 2012).

⁵ *Knowles v. Iowa*, 525 U.S. 113, 117 (1998) (quoting *Berkemer v. McCarty*, 468 U.S. 420, 439 (1984); see also *Arizona v. Johnson*, 555 U.S. 323, 330 (2009); *Terry v. Ohio*, 392 U.S. 1 (1968).

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

Log #1087237

Additionally, upon running Subject 1's information on LEADS, Officer A discovered that Subject 1's driver's license was suspended for ten years and revoked for four years. The PDT Messages Report and Vehicle Impoundment/Seizure Report corroborate Officer A. Officer A's suspicion that Subject 1 violated traffic laws ripened, hence, he was justified in stopping Subject 1 for a traffic violation. Therefore, COPA recommends a finding of Exonerated for **Allegation #1**.

COPA recommends a finding of Exonerated for **Allegation #2** against Officer A, that he released Subject 1 on an I-Bond. According to Chicago Police Department ("CPD") Special Order S06-13(III)(D), "If the motorist is ineligible to sign or post an Illinois driver's license, they may be eligible to post, an Individual Bond ("I-Bond")."⁶

After Officer A had reasonable articulable suspicion to stop Subject 1 for a traffic violation, he wrote Subject 1 traffic citations. Subject 1 was ineligible to post her driver's license for the traffic citations.⁷ It is undisputed that Officer A gave Subject 1 an I-Bond, which Subject 1 signed, and was subsequently was released. Although Officer A stated he wrote an I-Bond as a professional courtesy instead of arresting Subject 1 for driving on a suspended and revoked driver's license, he did not violate any CPD procedures. Since Subject 1 was unable to post her driver's license, per S06-13, Officer A wrote and properly released Subject 1 an I-Bond. Therefore, COPA recommends a finding of Exonerated for **Allegation #2**.

COPA recommends a finding of Exonerated for **Allegation #3** against Officer A, that he placed a seizure notice on the vehicle. According to Special Order S07-03-05(III)(A) lists Municipal Code of Chicago ("MCC") violations subject to impoundment. Included is MCC 9-80-240 driving with a revoked or suspended license. MCC 9-80-240(a) states, "[t]he owner of record of any motor vehicle that is operated by a person with a suspended or revoked driver's license shall be liable to the city for an administrative penalty of \$1,000 plus any applicable towing and storage fees. Any such vehicle shall be subject to seizure and impoundment pursuant to this section." Furthermore, according to S07-03-05(III)(B), "[w]henever a Department member has probable cause to believe that a vehicle is subject to impoundment pursuant to a violation of the Municipal Code of Chicago, the member will: [among additional procedures], obtain a Seizure Notice sticker and affix the Seizure Notice sticker to the driver's side front door window of the impounded vehicle."

It is undisputed that Officer A initiated impoundment procedures when he placed a seizure notice on the vehicle Subject 1 drove on the date of the incident. Officer A had knowledge of the fact that Subject 1 drove on a suspended and revoked driver's license. Per MCC 9-80-240(a), the vehicle is subject to seizure and impoundment. Officer A followed procedure outlined in S07-03-05(III)(B) by obtaining a Seizure Notice sticker and placing it onto the vehicle. Officer A's actions were proper and lawful. Therefore, COPA recommends a finding of Exonerated for **Allegation #3**.

⁶ Likewise, the CPD Bail Bond Manual Section VIII(C) outlines the procedure for persons in custody for traffic offenses. Section VIII(C)(1)(f) states, "Any person issued a Personal Service Citation which charges a violation of any statute or ordinance relating to the regulation of traffic will be required to post one or more of the following forms of bail, when applicable: Individual Bond."

⁷ Subject 1 did not possess a valid driver's license because it was suspended and revoked.

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

Log #1087237

COPA recommends a finding of Unfounded for **Allegation #4** against Officer A, that he engaged in an unnecessary verbal dispute with Civilian 1. Rule 9 prohibits an officer to engage in any unjustified verbal altercation with any person, while on or off duty. Rule 9 comments this rule prohibits verbal maltreatment of any citizen, including any unjustified altercation of any kind. Determining whether Officer A engaged in a verbal altercation is fact dependent.

In her statement, Subject 1 claimed that Officer A got into a verbal altercation with Civilian 1. However, Subject 1 did not witness their interaction. It is undisputed that Civilian 1 initially spoke with profanity towards Officer A while outside of the station to which Officer A did not respond. After both were inside the station, Officer A made one statement to Civilian 1 regarding Subject 1's traffic stop. The exchange of words lasted approximately one minute. In his statement, Civilian 1 admitted to using profanity because he "snapped" and his emotions got the best of him. Civilian 1 further admitted that he initiated the exchange of words because he was angry. Civilian 1 stated that Officer A was tough, but he never indicated that Officer A was unprofessional or rude.

Based on the evidence, the exchange of words did not amount to a verbal altercation on Officer A's end. Rather it was an exchange of words initiated by Civilian 1 to which Officer A replied in a professional manner. Civilian 1 was upset and irate while Officer A did not yell and remained calm. The alleged verbal altercation was not based on the facts revealed through the investigation. Therefore, COPA recommends a finding of Unfounded for **Allegation #4**.

COPA Investigator A

COPA Supervising Investigator A

COPA Deputy Chief Investigator A